

ORIGINAL

December 3, 1999

VIA HAND DELIVERY

RECEIVED
DEC - 3 1999
EX PARTE OR LATE FILED
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
445 Twelfth Street, S.W. Room TWA-325
Washington D.C. 20554

RE: *Ex parte notification:*
WT Docket No. 99-168 - Service Rules for 746-806 MHz Band

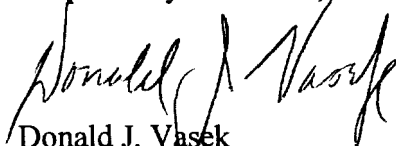
Personal
Communications
Industry
Association

Dear Ms. Salas:

On December 2, 1999 Jay Kitchen, Mary McDermott and Donald Vasek of the Personal Communications Industry Association (PCIA) met with Mark Schneider, Legal Advisor to Commissioner Ness, to discuss PCIA's views in the above-referenced docket. The attached two page document, distributed at the meeting, reflects those views.

Pursuant to section 1.1206(b) of the Commission's rules, two copies of this letter are hereby filed with the Secretary's office. Please refer questions in connection with this matter to me at (703) 535-7489.

Respectfully submitted,


Donald J. Vasek
Director, Government Relations

No. of Copies rec'd 0+1
List ABCDE

**A Private Spectrum Allocation in the 746-806 MHz Band
Positions of the Personal Communications Industry Association**

WT Docket No. 99-168

Eligibility - A very broad range of companies should be able to participate in the auction, with eligibility open to for-profit entities such as manufacturers, dealers, private internal system users that use spectrum in the daily conduct of their business, and PMRS carriers. Other entities such as trade associations, existing FCC-certified frequency advisory committees or consortiums of any of the above should also be permitted. Such open eligibility helps to ensure that an adequate number of bidders will participate in the auction. However, because this spectrum is intended to benefit many in the private spectrum community, PCIA recommends the adoption of a 50% spectrum cap on internal systems use. Under this cap, private internal systems users would be eligible to bid for spectrum as a band manager, but would be allowed to use no more than 50% of the spectrum they won for their own internal system use. This restriction makes it much more likely that such a licensee would make the remainder of the spectrum available for use by other private service eligibles.

License Blocks/Band Plan - PCIA supports the band plan developed by Motorola which consists of four 1.5 MHz blocks, intended for use as two paired blocks of 3 MHz. No specific channelization requirements should be adopted. This is best left to the manufacturers in order to give them the flexibility to develop equipment that meets the specific needs of private wireless users.

License Size/Market Areas - Issuing licenses in smaller service areas increases the opportunities for small businesses to participate in the auction and become band managers. Accordingly, we recommend the Commission make available one 3 MHz license using the 52 Major Economic Area (MEA) service areas, and one 3 MHz license using the 176 Economic Area (EA) service areas. We do not believe that a nationwide license is appropriate for this spectrum. Few, if any entities have the ability to bid on such a large license. Assembling the necessary financial backing in the short time frame before the start of the auction will be difficult if not impossible for private interests. Additionally, PCIA believes this is another area in which the market place should be allowed to work. If licensees determine over time that larger license areas are appropriate, they can "aggregate up" as occurred with PCS.

Safeguards- While PCIA is interested in keeping the licensing process as simple as possible, we nonetheless believe that a few safeguards are appropriate in order to meet the twin goals of: 1.) making the spectrum available to the largest number of users on reasonable terms and conditions and 2.) satisfying the intent of Congress in mandating the auction of this spectrum. PCIA endorses the following:

- The same entity should not initially be allowed to hold both licenses in a given market. This will promote competition by bringing more bidders to the auction and providing more band manager choices for end users.

- As noted above, PCIA recommends adoption of a 50% internal use cap, applicable to private internal use systems auction winners. This would help to ensure that spectrum is made available to a wider number of users and prevents spectrum monopolization by a single entity.

- Adopt reserve prices/minimum bids to ensure that Congress' intent in mandating this auction is met.

- Prohibit interconnection for resale. Private system operators should be permitted to interconnect those systems so that the users can reach those outside the private system.

Miscellaneous -

- Post auction license transfers should be allowed. Traditional construction (i.e. build out) and service requirements are inconsistent with the band manager license. Additionally, given the unavailability of the majority of the spectrum until at least 2006, it is reasonable to expect that some auction winners' business plans could change during the intervening years. If a post auction transfer would result in the same entity holding overlapping licenses, that entity must divest one of the licenses within a specified time frame.

- The ten year license term should officially commence in 2006, with expiration in 2016. However licensees should be able to distribute spectrum for actual use sooner than 2006 in those areas of the country where there is no incumbent broadcast use (with appropriate engineering safeguards similar to the 470-512 MHz band). In effect this would mean that some licensees may have an 11, 12, 13 etc. year license in limited parts of the country.